

STATE ARCHIVES AND RECORDS COMMISSION
Minutes of the Quarterly Meeting
March 8, 2007
Department for Libraries and Archives

The State Archives and Records Commission met at 10:00 a.m., Thursday, March 8, 2007, in the Board Room, Kentucky Department for Libraries and Archives (KDLA), 300 Coffee Tree Road, Frankfort, Kentucky.

Members present: Wayne Onkst, Chairman; Sandra McAninch, representing the Kentucky Library Association; Terry Birdwhistell, representing the University of Kentucky; Jennifer Gregory, representing regional colleges and universities; and Dean Johnson representing local governments.

Representatives present: Sally Hamilton representing Laura E. Owens, Secretary, Education Cabinet; Brandon Haynes, representing Joseph E. Lambert, Chief Justice, Supreme Court; Amye Bensenhaver, representing Gregory D. Stumbo, Attorney General; Bryan Lykins, representing Crit Luallen, Auditor of Public Accounts; Leslie Smith, representing Robert Sherman, Director, Legislative Research Commission; Charles Robb, representing Mark Rutledge, Commissioner of Technology; and Glenna Mays representing Brad Cowgill, State Budget Director.

Members not present or represented: James Kastner, representing the Kentucky Historical Society; Emily Dennis, representing Citizens-at-Large; and Leah Hawkins, representing Citizens-at-Large.

Public Records Division staff present: Richard N. Belding, Director, Public Records Division; Jerry Carlton, Manager, Local Records Branch; Glen McAninch, Manager, Technology Analysis and Support Branch; Jim Cundy, Manager, State Records Branch; Mark Stone, Manager, Micrographics and Digital Imaging Branch; Mark Myers, Electronic Records Specialist; Pat Brookman, Records Analyst; Lena Jones-Turner, Regional Administrator; Larry Barnett, Regional Administrator; Tim McIntosh, Regional Administrator; Trace Kirkwood, Regional Administrator; and Cynthia Snapp, Administrative Specialist.

Guests present: Scott Porter, Council for the Department for Libraries and Archives; Tara Mefford, Cabinet for Health and Family Services/Office of Fiscal Services; and Lt. Jonathan Sherrod, Lexington/Fayette Urban-County Police Department/Training Academy.

Onkst called for introductions by those present.

Mr. Haynes made a motion to accept the minutes of the previous Commission meeting, seconded by Ms. McAninch. The vote by members and representatives present was unanimous.

NEW OR REVISED RECORDS RETENTION SCHEDULES

Cabinet for Health and Family Services – Office of the Inspector General

Brookman was the Records Analyst working on this revision. **Changes are being made to the agency's administrative designations only.** All existing series numbers will remain at the Office level instead of the Division level. This allows any Division within the Office to apply pertinent series numbers to their records without having to create an identical series. **The retention schedule is also being reissued with a new schedule date.** Affected series are: Series 03702, Investigative Case Records; Series 04493, Audit Report File; Series 04494, Agency Record File; Series 04495, Audit Workpapers File; Series 05378, Medicaid and Welfare Fraud and Abuse Complaint File; Series 05379, Investigation File; Series 05380, Long Term Care Licensure, Certification and Complaint File; Series 05381, Nurse Aide Abuse and Neglect Investigative File; Series 05396, Community Health Facilities License, Certification and Complaint File; Series 05397, Licensure and Complaint File; Series 05398, Adverse Action File; and Series 05399, STARS for KIDS NOW Quality Rating File.

The Office of Inspector General is the regulatory agency for licensing all health care facilities, day care facilities, long-term care facilities, and child adoption/child-placing agencies in the commonwealth. They are responsible for the prevention, detection and investigation of fraud, abuse, waste, mismanagement and misconduct by the cabinet's clients, employees, medical providers, vendors, contractors and subcontractors. The Office of Inspector General also conducts special investigations as requested by the secretary, commissioners, or office heads within the cabinet into matters related to the cabinet or its program.

Brookman summarized the schedule revision.

Mr. Haynes made a motion to adopt the revised schedule, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

Lexington/Fayette Urban County Government – Public Safety – Police Department

Carlton worked on these additions and changes. **Additions to the schedule:** Series L5867, Training Records – Early Withdrawals; and Series L5868, Informational and Test Records File. **Changes to the Schedule:** Series L4867, Training Record File, from Indefinite, Destroy 70 years from date first employed to Indefinite, Destroy 5 years after termination of employment.

Lexington/Fayette Urban County Government (LFUCG) was formed by the merger of the City of Lexington and Fayette County. The merged government was officially chartered January 1, 1974 after a referendum was approved by the citizens of both governments. A government - wide records retention schedule was approved by the Archives and Records Commission on September 9, 2004. A new section is being added to the Public Safety – Police Department unit. The Training Academy is one of four police academies in the state. The others academies are: Metro Louisville, Kentucky State Police, and Criminal Justice Training at Eastern Kentucky University. All training for LFUCG police officers is completed at the Training Academy which is administered by the LFUCG Police Department. The training records are maintained by the

Academy with final graduation and final transcripts being kept in the Personnel File of each officer completing the training. They are also sent to Criminal Justice Training at ECU.

Carlton summarized the schedule additions. Lt. Sherrod expressed his appreciation to the Commission and the Local Records staff for this opportunity to revise the schedule. The need for this review is due largely to high turnover within the Division of Police over the last five years, which has resulted in an accumulation of records and a need for more effective records management practices.

Lykins asked if these records would ever come into play in the event of ongoing litigation or a complaint even after an employee has left the department. Lt. Sherrod said that the Division of Police worked directly with the Department of Law in developing this recommendation. In a particular circumstance, a record could be retained at the discretion of the Agency.

Mr. Haynes made a motion to adopt the schedule additions and changes, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

Board of Optometric Examiners

Brookman was the Records Analyst working on this revision. **This is a complete revision of the Retention Schedule for the Kentucky Board of Optometric Examiners. Additions to the schedule:** Series 05532, Continuing Education Certificates; Series 05533, Complaint File; and Series 05534, Continuing Education Database. **Deletions from the schedule:** Series 00929, Examinations; Series 00930, License Renewals; Series 00931, Examination Grade Sheet; Series 00932, Completed Examinations; and Series 00933, Position Control Report.

The Kentucky Board of Optometric Examiners is responsible for regulating the practice and licensure of optometry in Kentucky. The Board grants initial licensure to qualified optometrists and oversees the annual renewal of licenses. The Board also investigates complaints against practitioners and is responsible for imposing disciplinary sanctions against those who violate Kentucky Revised Statutes Chapter 320. The Board promulgates regulations concerning professional and business practice standards, continuing education and licensure requirements.

Brookman summarized the schedule revision.

Ms. Smith made a motion to adopt the revised schedule, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Education Cabinet –Workforce Investment Department – Office of Employment and Training

Getman was the Records Analyst working on these deletions. These series are being removed from the agency's schedule because they are covered on the General Schedule for State Agencies. These deletions reflect an ongoing effort to update this agency-specific retention schedule. **Deletions from the schedule:** Series 2258, Program Status Reports; Series 2259, Statistical Reports; Series 2177, News Releases; Series 2178, Speeches of Commissioner; Series

2180, Projects and Grants; Series 2181, Comprehensive Employment and Training Act Program, 1973; Series 2184, Space Utilization and Reorganization; Series 2185, State Releases; Series 2191, State and Federal Legislation; Series 2192, Cost Effectiveness Study Materials; Series 2193, Work Papers on Program Studies; Series 2187, Personnel Cards; Series 2188, State Releases – Program Regulations; Series 2189, Telex Transmissions; Series 2190, Itineraries – Regional Managers; Series 2212, Promotional Programs and Activities; Series 2213, MDTA Cost Reimbursement Prime Contracts; Series 2214, Subcontracts for On the Job Training; Series 2194, Annual Reports of Prime Sponsor (D); Series 2195, Region IV Manpower Control Issuances; Series 2196, Area Development District – Manpower Plans; Series 2197, Quarterly Progress Reports; Series 2198, Applications for Federal Assistance Grant Packages; Series 2199, CETA Grant Reports; Series 2200, Comprehensive Manpower Services Plans – Title I; Series 2201, Emergency Jobs and Public Service Employment Programs – Title VI; Series 2204, Public Employment Program and Modifications – Title II; Series 2205, Summer Youth Program and Modifications – Title III; Series 2206, Program Assessment, Analysis and Monitoring Reports; and Series 2207, Title Evaluations, Annual Reports, Component Programs and Projects.

Functions of the Office of Employment and Training fall into three broad areas: services to job seekers and employers; compiling and distributing labor market information for individuals, businesses and units of government; and providing Unemployment Insurance short term benefits. The original schedule was created in 1976 when the agency was at the Department level within the Cabinet for Human Resources. A number of the specific series scheduled at that time are now covered in the General Schedule. The deletions from the Office of Employment and Training schedule below reflect an ongoing review to determine which agency series now fall under categories in the General Schedule.

Cundy summarized the schedule changes in Getman's absence.

Mr. Haynes made a motion to adopt the schedule deletions, seconded by Ms. Gregory. The vote by the members and representatives present was unanimous.

Horse Racing Authority

Brookman was the Records Analyst working on this revision. **Series being revised:** Series 05539, Kentucky Breeders Incentive Fund File, is being updated to include a database in which information from the records series is being maintained.

In 1992, the Kentucky Racing Commission was created out of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission. In 2004, the agency became the Kentucky Horse Racing Authority, an independent agency of state government charged with the responsibility of regulating the conduct of horse racing and pari-mutuel wagering on horse racing and related activities within the Commonwealth of Kentucky. The Authority is attached to the Environmental and Public Protection Cabinet for administrative purposes.

Brookman summarized the revision.

Ms. Smith made a motion to adopt the schedule revision, seconded by Mr. Johnson. The vote by the members and representatives present was unanimous.

Justice and Public Safety Cabinet – Office of Investigations

Brookman was the Records Analyst working on this change. **Series being changed:** Series 04850, Investigative Report File, from 5 years to 8 years.

The Justice and Public Safety Cabinet is responsible for criminal justice services that encompass law enforcement and training; prevention-education and treatment involving substance abuse; adult and juvenile incarceration; autopsies, death certifications and toxicology analyses; special investigations; paroling of eligible convicted felons; and long range planning and recommendations on statewide criminal justice reform issues.

Brookman summarized the change.

Mr. Haynes made a motion to adopt the schedule revision, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Local Government General Records

Carlton worked on these additions. **Series added to the schedule:** Series L5870, Benefits File; and Series L5866, Nonbusiness Related Correspondence. **Revisions to the Schedule: The following record series have been revised to reflect the changes made to the General Schedule for State Agencies by the Archives and Records Commission at the meeting held December 14, 2006. The function and use and content sections are the portions being changed. The retention periods remain the same.** Series L4954, Official Correspondence; Series L4955, General Correspondence; and Series L4956, Informational and Reference Material.

The Local Government General Records Retention Schedule may be used by all local public agencies in the Commonwealth. Examples are county governments, municipal governments, merged governments, schools, and all agencies within local governments. The issuance of this retention schedule in 1999 was prompted by a need to assemble those records that every local government agency may create or receive in the course of business.

Carlton summarized the additions and revisions.

Mr. Haynes made a motion to adopt the schedule additions and revisions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Board of Nursing

Getman was the Records Analyst working on this change. **Series being changed:** Series 00776, Provider Renewal Application File, from 4 years to 5 years.

The Kentucky Board of Nursing, as presently constituted, was established in 1966. It is a sixteen-member board. Each member is appointed by the Governor for a four-year term. The board is responsible for licensing practical nurses and registered nurses, and for credentialing advanced registered nurse practitioners, sexual assault nurse examiners, and dialysis technicians. To that end, it also investigates complaints against nurses. It is also responsible for the approval of nursing education programs and continuing education and competency programs. The board's executive office has four branches: Professional Support, Credentials, Consumer Protection and Agency Support. The board also maintains several advisory bodies.

Cundy summarized the change in Getman's absence.

Ms. Mays made a motion to adopt the schedule revision, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

Occupational Safety and Health Review Commission

Getman was the Records Analyst working on this addition. **Series added to the schedule:** Series 05546, Contested Citations Exhibit Files.

The KOSH Review Commission is an independent agency under the statutory authority of KRS 338.071. The commission is composed of three members who are appointed by the Governor. One member represents the interests of employers. One member represents the interests of employees and one represents the occupational safety and health profession. The members must have a minimum of five years' experience in their respective areas of expertise. When employers in the Commonwealth are cited by the Kentucky Department of Labor, Office of Occupational Safety and Health Compliance, for alleged violations of Kentucky's Occupational Safety and Health Act and Standards, and the employer or an employee contests the citations, the KOSH Review Commission provides an opportunity for the contesting party to come to a hearing and defend against the citations and penalties.

Cundy presented the schedule addition in Getman's absence. The Advisory Committee did question whether a six-month retention period was sufficient, although they did recommend approval. Getman discussed this question with the attorney for the KOSH Review Commission and was advised there is no independent cause of action. If there is an occupational-safety-and-health-related grievance against an employer, the Safety and Health Review Commission is the only avenue to pursue the claim. The exception is if there is death involved, in which case the police would be involved in collecting evidence for exhibits. The staff attorney also emphasized that in the last twelve years no one has come forward to claim any of the exhibits that had been compiled. Further, these are materials that can be reproduced if necessary.

Ms. Haynes made a motion to adopt the schedule addition, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Public School District – Administration

Carlton worked on this addition. **Series added to the schedule:** Series L5869, Parent/Teacher Conference File.

The first attempt to assemble a school district – wide records retention schedule was made in 1988. The Archives and Records Commission approved this schedule that year. In 1999 a complete revision of the schedule was approved by the Commission. This schedule included K through 12 and the school district central office in one schedule. In March 2003, the Commission once again approved a revision of the entire schedule. The 176 school districts in the Commonwealth produce an overwhelming amount of paper records. The Local Records Branch continues to work with school districts providing records management training and direct service.

Carlton summarized the addition.

Mr. Haynes made a motion to adopt the schedule addition, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

General Schedule for State Agencies – Miscellaneous Records

Cundy was working on this change. This submission represents part of the continuing effort to update the General Schedule for State Agencies. **Series being changed:** Series M0016, Request to Inspect Public Records, from Destroy when requested record is destroyed and after audit to 3 years.

A General Schedule is a class of records retention schedule which governs the retention and disposition of specified records common to several or all public agencies. The General Schedule for State Agencies covers records for state agencies.

Ms. McAninch asked if three-year retention is standard among other states. Cundy stated he had not solicited that information, but that on a local-government level an open records request retention period is one (1) year. Agencies retain Series M0017, Open Records Register, for five (5) years.

Mr. Haynes made a motion to adopt the schedule revision, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Other Schedule-Related Business

Onkst recognized Brookman, who said that the following series are being transferred, without changes in retention or disposition, from the schedule of the Department of Military Affairs to the schedules of other agencies: Series 01717, Flight Report and Series 01718, Passenger Manifest are being transferred to Transportation Cabinet – Department of Aviation; Series 01719, Claim Case Records (MIA), Series 01720, Claim Case Records (Disabilities) and Series 01721, States Regional Office Bulletin are being transferred to the Department of Veteran's Affairs.

After a brief break, Onkst moved on to **Local Records Grants Review**.

Onkst recognized Belding, who reminded members that, in the coming year, Local Records Branch staff would see an infusion of additional funds for the Local Records Program as a result of the passage of HB 537 during the 2006 legislative session. According to the department's Financial Services Branch, the funds will be remitted on a monthly basis. There were some items on the agenda involving commission members' approval of some grants that will be funded with these new monies.

Belding recognized Carlton who noted a total of \$343,702 was being requested out of the \$430,000 baseline amount allocated to the grant fund, leaving a balance of \$86,298 to be distributed in June. The Local Records Branch also asked that four applications that had been submitted for a total of \$120,940 be approved for funding utilizing forthcoming monies allocated as a result of HB77. The City of Burkesville and Cumberland County are in a direct line with the Wolfe Creek Dam. The Division has security microfilm for that county and a vendor on site at this time finishing up work on a grant. The division will pick up and film additional records in that county as well. The City of Burkesville in Cumberland County the microfilming of the city's permanent records, and the division supports that request. There is also a request for approval of funds for digital imaging systems for Crittenden County and Fulton County. Crittenden County had an automated indexing system that crashed. Fulton County has a functional automated indexing system but they are requesting a digital imaging system. This gives the division an opportunity to ensure that local agencies that want to start using digital imaging or any other new technology understand up front the significant ongoing costs involved, such as for service contracts and upgrades, costs that will the local government will need to continue to bear in the future.

Mr. Johnson made a recommendation that the slate of grant proposals recommended by division staff for funding be approved by Commissioner Onkst, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Belding expressed appreciation to Dean Johnson and the County Clerk's Association for their work on the passage of HB 537, and for their continued and strong support. Johnson expressed gratitude for the strong support that is received by local government offices from Local Records Branch staff.

The next item was **Other Business**.

Onkst recognized Belding, who updated commission members on the change to Series M0002, General Correspondence, on the General Schedule for State Agencies. One of the recommendations commission members made at the December 16, 2006 meeting was that division staff update them regarding communication and training as part of this schedule change. He directed commission members to handouts that reflect a series of pages that have been added to the department's website. These pages provide ready access for state employees to obtain information about the change and also about practical steps that they can take to improve their management of e-mail. Staff members Jim Cundy and Mark Myers have provided workshops for state agency staff, and staff of the Department of Public Advocacy and the Kentucky

Retirement Systems were among those recently reached. Division staff has met with personnel from the Office of Employment and Organizational Development to request their advice in making division communications material as easily understood as possible, and with Tom Stephens, General Counsel, Personnel Cabinet, concerning the inclusion of information about the employees' records management responsibilities in the online **Employee Handbook**.

Cundy directed commission members to a copy of the memorandum which was sent on March 7, 2007 to State Agency Heads, Legal Counsel, and Records Officers advising them of the change and that division staff would be contacting them to provide training opportunities. Cundy also distributed an e-mail communication that parallels this memorandum alerting them to the impending change and offering training. Cundy reported that there had been significant and positive response. The training will consist of the workshop presented to commission members at the December 14, 2006 meeting, and would involve agency heads and upper administration staff, agency attorneys, and Records Officers, in multi-agency groups of twenty to thirty.

Myers elaborated on the nature of the newly-available material available on the department's website, and noted that for interested commission members, there would be a demonstration of the pages after the meeting. Division staff is also working on uploading the items used in the workshops to the website to complement in-house agency training.

Onkst recognized Belding to address planning for a disaster at Wolf Creek Dam. Belding said that Executive Branch agencies were asked to provide information about the assistance which individual agencies could provide and how their services to local governments might be impacted if there were a catastrophic event in the affected region downstream from the dam. The state Division of Emergency Management identified twenty counties that could experience potential impact, with four counties (the so-called inundation counties) to be hit the hardest: Crittenden County, Cumberland County, Monroe County and Russell County. One of the items the department was able to include in its response to the Cabinet was the substantial quantity of security microfilming work done with Local Records grants since 1985. This is a significant contribution toward securing records that would be uniquely found in local government offices in those counties. In addition, Local Records Branch staff has worked with governments in that area regarding backup procedures for electronic information, including urging that backup copies be stored outside the flood plain area. Local Records Branch staff and KDLA's Document Preservation Laboratory staff are working with governments in that area regarding preventative measures local government agencies can take in advance of catastrophic events. KDLA has available on its website a preservation checklist as a self-assessment tool for local government officials. Local government officials do know that Local Records Branch staff is available to assist them in the event of a catastrophic event impacting records or information resources.

Onkst recognized Belding, who explained the department tracks legislative bills containing items related to public records and recordkeeping. Categories typically tracked include access issues, electronic records systems, organizational development, organizational changes, creation of new agencies, changes impacting Retention Schedules. For example, division staff has been tracking a bill that would provide for the expungement of Class D Felonies, a bill which could impact KRS 519.060, Tampering with a Public Record.

Onkst asked Belding to discuss the current round of capital planning. He reviewed a prior KDLA capital project request to build an archival facility expansion. The project did make it through the Capital Planning Advisory Board's review process in 2005 and received a formal recommendation for funding. Though it was included in the House Budget, it was not included in the Governor's Executive Budget or the Senate Budget, and was not included in the General Assembly's free conference committee budget. The project for which the department had requested funding was budgeted at \$8.055 million in 2005; it will now cost over \$11 million. Any further delay in the process will only result in further increases in costs. The department will be resubmitting the request during the next cycle and division staff will be working to make sure legislators understand how important this is, as the division serves every county in the state.

There being no further business, Onkst adjourned the meeting at approximately 11:10.